REMARKS

THE SEPTEMBER 10, 2004 OFFICE ACTION

The Examiner stated:

Claims 32-51 are presented for examination.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees (various cases cited).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 32-51 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,681,287. Although the conflicting claims are not identical, they are not patentable distinct from each other because the only difference in language between the claimed present invention and the patented claimed invention relates to the special function being implemented in software. Using software for this purpose is an obvious type implementation and the only other type of implementation would be hard wired and as the specification is silent on being able to implement the invention as a hard wired

implementation, the software implementation is no more than an obvious addition to the claimed invention.

Claim 44 is objected to as having 2 periods. Correction is required

Claims 46 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phase 'a digital signal processor a microcontroller' does not make sense; and claim 48 cannot depend on claim 13 as this claim was cancelled.

DISCUSSION

Claims 32-51 are presently under examination.

The Specification has been amended to define various acronyms.

Claim 44 has been amended to overcome the Examiner's objection.

Claims 46 and 48 have been amended to overcome the Examiner's rejections.

To overcome rejection of Claims 32-51 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-29 of the parent U.S. Patent No. 6,681,287, a terminal disclaimer is filed herewith.

Applicant respectfully requests reconsideration of the new Claims. Applicant believes that these claims are in condition for allowance and such action is respectfully requested.

If a telephone call would expedite prosecution of the present Application, the Examiner is invited to contact Applicant's attorney.

Respectfully submitted,
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